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Agenda item 142
Administration of justice at the United Nations

Draft resolution submitted by the Chairperson following informal consultations

Administration of justice at the United Nations

The General Assembly,

Recalling section XI of its resolution 55/258 of 14 June 2001 and its resolutions 57/307 of 15 April 2003, 59/266 of 23 December 2004, 59/283 of 13 April 2005, 61/261 of 4 April 2007, 62/228 of 22 December 2007 and 63/253 of 24 December 2008, and its decision 63/531 of 11 December 2008,

Reaffirming the goal of gender parity within the United Nations system, with due regard to the principle of geographical representation, in conformity with Article 101 of the Charter,

Having considered the reports of the Secretary-General on the outcome of the work of the Joint Appeals Board during 2007 and 2008 and between January 2009 and June 2009 and statistics on the disposition of cases and work of the Panel of Counsel[1] and on the activities of the United Nations Ombudsman and Mediation Services,[2] the related report of the Advisory Committee on Administrative and Budgetary Questions,[3] and the letter dated 20 October 2009 from the President of the General Assembly to the Chairman of the Fifth Committee,[4]

1. *Takes note* of the reports of the Secretary-General on the outcome of the work of the Joint Appeals Board during 2007 and 2008 and between January 2009 and June 2009 and statistics on the disposition of cases and work of the Panel of Counsel[1] and on the activities of the United Nations Ombudsman and Mediation Services;[2]

2. *Reaffirms* its resolutions 61/261, 62/228 and 63/253 on the establishment of the new system of administration of justice;

[1] A/64/292.
[2] A/64/314.
[3] A/64/508.
[4] A/C.5/64/3.

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3. *Expresses its appreciation* to staff members who have participated in the system of administration of justice, including the joint disciplinary committees, the joint appeals boards and the panels of counsel;

4. *Also expresses its appreciation* to the members and staff of the United Nations Administrative Tribunal for their work;

5. *Endorses* the conclusions and recommendations contained in the report of the Advisory Committee on Administrative and Budgetary Questions,[3] subject to the provisions of the present resolution;

6. *Takes note* of paragraph 12 of the report of the Advisory Committee on Administrative and Budgetary Questions;[3]

7. *Requests* the Secretary-General to report to the General Assembly at its sixty-fifth session on the status of the Judges of the United Nations Appeals Tribunal and their entitlements, including travel and daily subsistence allowance;

8. *Also requests* the Secretary-General to include, inter alia, the following information in his report pursuant to paragraph 59 of resolution 63/253 for consideration by the General Assembly at its sixty-fifth session:

(a) The exact terms of reference of the Office of the United Nations Ombudsman and Mediation Services concerning access by non-staff personnel;

(b) An update concerning the exact number of persons other than staff personnel working for the United Nations and the funds and programmes under different types of contracts, including individual contractors, consultants, personnel under service contracts, personnel under special service agreements and daily paid workers;

(c) A description of the new procedure for management evaluation, including the types of work-related administrative decisions for which it is required, and of the procedure normally followed in other cases where non-staff personnel submit a complaint concerning a violation of contract that does not qualify for management evaluation;

(d) A compilation of the standard contracts and rules, including dispute settlement clauses, that govern the relations between the Organization and the various categories of non-staff personnel;

(e) An analysis of monetary compensation awarded, as well as indirect costs associated with an appeal, such as staff time, including identification of those aspects of staff administration which give rise to large numbers of appeals, as well as comparative data from the old and the new system;

(f) Measures in place to provide for accountability of officials for causing financial loss to the Organization under the new system for administration of justice, including recovery action, as well as actions taken to enforce such accountability;

9. *Further requests* the Secretary-General, with regard to remedies available to the different categories of non-staff personnel, to analyse and compare the respective advantages and disadvantages, including the financial implications, of the options set out below, bearing in mind the status quo concerning dispute settlement mechanisms for non-staff personnel, including the United Nations Commission on International Trade Law arbitration clause, and to report thereon in his report

pursuant to paragraph 59 of resolution 63/253 for consideration by the Assembly at its sixty-fifth session:

(a) Establishment of an expedited special arbitration procedure, conducted under the auspices of local, national or regional arbitration associations, for claims under twenty-five thousand United States dollars submitted by personal service contractors;

(b) Establishment of an internal standing body that would make binding decisions on disputes submitted by non-staff personnel, not subject to appeal and using streamlined procedures, as proposed by the Secretary-General in paragraphs 51 to 56 of his report on administration of justice;[5]

(c) Establishment of a simplified procedure for non-staff personnel before the United Nations Dispute Tribunal, which would make binding decisions not subject to appeal and using streamlined procedures;

(d) Granting of access to the United Nations Dispute Tribunal and the United Nations Appeals Tribunal, under their current rules of procedure, to non-staff personnel;

10. *Reaffirms* that the informal resolution of conflict is a crucial element of the system of administration of justice, and emphasizes that all possible use should be made of the informal system in order to avoid unnecessary litigation;

11. *Takes note* of section IV, on systemic issues, of the report of the Secretary-General on the activities of the Office of the Ombudsman,[2] and emphasizes that the role of the Ombudsman is to report on broad systemic issues that he or she identifies, as well as issues that are brought to his or her attention, in order to promote greater harmony in the workplace;

12. *Emphasizes* the importance of interaction between the Office of the Ombudsman and other parts of the Secretariat, such as the Office of Human Resources Management, to ensure that systemic issues are adequately addressed, and requests the Secretary-General to report regularly to the General Assembly on actions taken to address the findings of the Ombudsman on systemic issues;

13. *Welcomes* the submission of the first joint report for the entities covered by the integrated Office of the Ombudsman[2] and requests the Secretary-General to submit to the General Assembly such a report at its sixty-fifth session and thereafter on a regular basis;

14. *Recalls* paragraphs 48 and 49 of its resolution 63/253, and requests the Secretary-General to ensure that the best possible use is made of the three ad litem judges in order to reduce the existing backlog of cases before the United Nations Dispute Tribunal;

15. *Requests* the Secretary-General to create a comprehensive website and an electronic filing system for the new system of administration of justice as soon as possible, taking into account the role of the Office of Information and Communications Technology, and requests the Secretary-General to include information on the progress made in that regard in his report pursuant to paragraph 59 of resolution 63/253;

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[5] A/62/782.

16. *Invites* the Sixth Committee to consider the legal aspects of the reports to be submitted by the Secretary-General, without prejudice to the role of the Fifth Committee as the Main Committee entrusted with responsibilities for administrative and budgetary matters.